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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,118	02/19/2004	Gloria Smith	23 - 0545	5388

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EXAMINER

EDELL, JOSEPH F

ART UNIT PAPER NUMBER

3636

DATE MAILED: 12/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/782,118	Applicant(s) SMITH, GLORIA	
	Examiner Joseph F. Edell	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 September 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,804,462 to Kobayashi

Kobayashi discloses a seat cushion assembly that includes all the limitations recited in claims 1-6. Kobayashi shows a seat cushion assembly having a main member (Fig. 1) with upper and lower sections 1,2 (Fig. 1) pivotable with respect to each other, a pair of spaced lower section panels 4,7 (Fig. 1) forming the lower section, a pair of spaced upper section panels 14,17 (Fig. 1) forming the upper section, a topmost one of the pair of lower section panels having a plurality of topmost lower section panel openings (Fig. 1), a lowermost one of the pair of lower section panels having a plurality of lowermost lower section panel openings 8 (Fig. 1), a topmost one of the pair of upper section panels having a plurality of topmost upper section panel openings (Fig. 1), and a lowermost one of the pair of upper section panels having a plurality of lowermost upper section panel openings 18 (Fig. 1) wherein the main member is adapted for positioning the lower section over a base of a vehicle seat and the upper section over a back portion of the vehicle seat, and the plurality of topmost

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lower section panel openings are arranged to form zones (see Fig. 7) of similarly configured openings defining a lower section medial portion and a lower section perimeter portion wherein the pair of spaced lower section panels are *capable* of being detached by coupling clips 9,9a (Fig. 1) and the pair of spaced upper section panels are *capable* of being detached by coupling fasteners 19,19a (Fig. 3) such each pair of spaced panels are completely separable from each other.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-5 and 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,051,966 to Ness in view of U.S. Patent No. 4,621,804 to Mueller.

Ness discloses a seat cushion assembly that is basically the same as that recited in claims 1-5 and 14-18 except the upper and lower sections are not specified as being detachably coupled, as recited in the claims. See Figures 1-4 of Ness for the teaching that the seat cushion assembly has a main member (Fig. 1) with upper and lower sections (Fig. 1) pivotable with respect to each other, a pair of spaced lower section panels (Fig. 2) forming the lower section, a pair of spaced upper section panels (Fig. 2) forming the upper section, a topmost one of the pair of lower section panels having a plurality of topmost lower section panel openings 17 (Fig. 4), a lowermost one of the

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pair of lower section panels having a plurality of lowermost lower section panel openings 17 (Fig. 4), a topmost one of the pair of upper section panels having a plurality of topmost upper section panel openings 17 (Fig. 4), a lowermost one of the pair of upper section panels having a plurality of lowermost upper section panel openings 17 (Fig. 4) wherein the main member is adapted for positioning the lower section over a base of a vehicle seat and the upper section over a back portion of the vehicle seat, the lower section panels are sealed together and the upper section panels are sealed together and held in spaced relationship, and the spaced upper and lower section panels are coextensive with each other, respectively. Mueller shows a cushion assembly similar to that of Ness wherein the section panels 60 (Fig. 2) are detachably coupled to each other by complimentary, equally spaced snap portions 65,67 (Fig. 5) extending from the section panels that include a concave socket and a protrusion that forms a substantially frustaconical exterior surface. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the seat cushion assembly of Ness such that the pair of spaced lower section panels are detachably coupled together, the pair of spaced upper section panels are detachably coupled to each other, each pair of panels are completely separable from each other, the upper section panels including snap portions that are joined together to couple the upper section panels, the lower section panels including snap portions that are joined together to couple the lower section panels wherein the snap portions are equally spaced and include a concave socket and a protrusion that form a substantially frustaconical exterior surface, such as the cushion assembly disclosed in Mueller. One

would have been motivated to make such a modification in view of the suggestion in Mueller that the snap portions provide panels that are adjustable and replaceable with respect to another panel.

5. Claims 6-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ness in view of Mueller as applied to claims 1-5 and 14-18 above, and further in view of U.S. Patent No. 6,068,332 to Faust et al.

Ness, as modified, discloses a seat cushion assembly that is basically the same as that recited in claims 6-13 except the topmost section panels of the upper and lower sections lacks zones of similarly configured openings, as recited in the claims. See Figure 1 of Ness for the teaching that the plurality of topmost lower section panel openings have a lower section medial portion and a lower section perimeter portion, and the plurality of topmost upper section panel openings have an upper back portion, a lower back portion, and an upper section perimeter portion. Faust et al. shows a seat cushion assembly similar to that of Ness wherein the seat cushion assembly has a main member (Fig. 1) with upper and lower sections (see column 2, lines 33-36), a topmost section 11 (Fig. 2) of the lower section panel, and a topmost section 11 (Fig. 2) of the upper section panel, and zones 18,11 (Fig. 1) of similarly configured openings defining perimeter portions and sectional portions wherein the openings of the perimeter portions are smaller than the openings of the other sectional portions (see column 3, lines 13-25) and the lower back portion of the upper section panel has smaller openings than the upper back portion of the upper section panel (see column 2, lines 66-67 and column 3, lines 1-7). Therefore, it would have been obvious to one having ordinary skill in the art

at the time the invention was made to further modify the plurality of topmost lower section panel openings are arranged to form zones of similarly configured openings defining a lower section medial portion with larger openings than a lower section perimeter portion, and the plurality of topmost upper section panel openings are arranged to form zones of similarly configured openings defining a upper back portion with larger openings than the upper section perimeter portion, and the openings defining a lower back portion are smaller than the upper back portion and the upper section perimeter portion, such as the seat cushion assembly disclosed in Faust et al. One would have been motivated to make such a modification in view of the suggestion in Faust et al. that the smaller openings of the lower back portion insures upward air flow along of the upper section and larger openings in the center of the sections increase air flow in those regions.

### ***Response to Arguments***

6. Applicant's arguments with respect to amended claim 1 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
JE  
November 22, 2005

  
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